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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ORLANDO ROUCHON, WYTASHA)
JUSTICE, J.R., a minor by and)
through her Guardian ad Litem, Robert)
Powell,)
Plaintiffs,)
v.)
COUNTY OF LOS ANGELES,)
GABRIELA TODMIA, -KIMBERLY)
ALLEN (Doe 1) and Does 2 through)
50 Inclusive,)
Defendants.)

**Case No. 2:18-cv-10029 VAP
(MAAx)**

**FIRST AMENDED COMPLAINT
FOR DAMAGES**

JURY TRIAL REQUESTED

Plaintiffs, ORLANDO ROUCHON, WYTASHA JUSTICE, and J.R. a minor, by
and through her Guardian Ad Litem, Robert Powell, allege as follows:

1 1. Pursuant to this Court's local Rule 8-1, Plaintiffs assert that the statutory or
2 other basis for the exercise of jurisdiction in this United States Federal District Court is
3 based upon a federal question asserted under 42 U.S.C. §1983 and §1985 as violations of
4 Plaintiffs' rights under the United States Constitution and laws, including those under the
5 Fourth and Fourteenth Amendments which Plaintiffs request be tried and heard before a
6 jury.

7 2. At all relevant times mentioned in this Complaint, Plaintiffs were residents
8 of Los Angeles County, California. Robert Powell has been appointed as Guardian ad
9 Litem for minor J.R. in this action.

10 3. At all times mentioned herein, the COUNTY OF LOS ANGELES
11 (hereinafter "COUNTY") was and is a public entity organized and existing under the
12 laws of the State of California. The Department of Children and Family Services
13 ("DCFS") is a subdivision of the COUNTY.

14 4. At all times mentioned herein, Defendant GABRIELA TODMIA
15 (hereinafter "Todmia") was a social worker with the Department of Children and Family
16 Services ("DCFS"), and in that capacity was and is an agent and/or employee of the
17 COUNTY.

18 5. Plaintiffs amend this Complaint to include Defendant KIMBERLY ALLEN
19 (hereinafter "Allen"), as DOE 1. Defendant Allen was a social worker with the
20 Department of Children and Family Services ("DCFS"), and in that capacity was and is
21 an agent and/or employee of the COUNTY.

22 6. Plaintiffs are ignorant of the true names and capacities of Defendants sued
23 herein as Does 2-50, inclusive, and therefore sue them by such fictitious names. Plaintiffs
24 will amend this Complaint to show the true names and capacities of said DOE
25 Defendants when the same are ascertained.

26 7. Plaintiffs are informed and believe and, based upon such information and
27 belief allege that each of the Defendants is responsible in some manner for the events and
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1 happenings referred to herein and was the legal cause of injury and damages to Plaintiffs
2 as herein alleged.

3 8. Plaintiffs are informed and believe and, based upon such information and
4 belief allege, that, at all times herein mentioned, each and every Defendant was the agent
5 and/or employee of their co-defendants, and each of them, acting at all relevant times
6 herein under color of the authority of a governmental entity under the statutes,
7 ordinances, regulations, customs and usage of the State of California and/or the United
8 States Constitution and related laws.

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10 **COMMON ALLEGATIONS**

11 9. ORLANDO ROUCHON (“ORLANDO”) is the natural father of Minor J.R.
12 (born 2011).

13 10. WYTASHA JUSTICE (“WYTASHA”) is the natural mother of Minor J.R.
14 ORLANDO and WYTASHA share custody of J.R.

15 11. On or about November 23, 2016, ORLANDO called Los Angeles County’s
16 211 line, asking for help finding housing for he and his daughter, J.R. The individual who
17 took ORLANDO’s call contacted DCFS.

18 12. On or about the same date, Defendant Todmia, who had been a social worker
19 for one year or less, made an unannounced visit to the motel where ORLANDO and J.R.
20 were residing while awaiting more permanent housing. Todmia, along with law
21 enforcement officers, interviewed both ORLANDO and J.R. Todmia noted that J.R.
22 appeared comfortable around everyone as she spoke with Todmia and law enforcement,
23 that she did not appear malnourished, that she was appropriately dressed with her hair
24 combed, and that she appeared comfortable in the presence of her father and followed
25 commands given by him. With ORLANDO’s permission, Todmia inspected J.R.’s arms,
26 stomach, back, legs, face and neck and found no marks or bruises. In short, Todmia found
27 no signs indicative of child abuse or neglect. Todmia noted that J.R. was “healthy and
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1 comfortable” in the care of her father. Todmia was allowed full access to J.R. and was
2 not prevented from asking her any questions.

3 13. After speaking with J.R., Todmia also spoke with WYTASHA and learned
4 that J.R.’s shot records and medical records were up to date.

5 14. On or about December 1, 2016, and without Court Order, or parental
6 consent, knowledge, or presence, Defendant Todmia went to J.R.’s school, seized J.R.
7 from her classroom and detained her against her will.

8 15. After she seized and detained J.R. from her classroom, Defendant Todmia
9 interviewed her. Todmia did not inform J.R. that she could refuse to be interviewed
10 and/or could leave the interview at any time she wished. Further, Todmia did not ask J.R.
11 if she would like to have either of her parents present for the interview or seek legal
12 counsel for J.R. or ask her if she would like to have an attorney or other adult present for
13 the interview.
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15 16. At the time Defendant Todmia seized and detained J.R. from her classroom,
16 J.R. was not suspected of being the victim of child abuse or neglect, nor were
17 ORLANDO or WYTASHA suspected of child abuse or neglect.

18 17. At the time she subjected J.R. to this unlawful seizure, Defendant Todmia
19 did not have a Court Order, parental consent, knowledge or presence, or any urgent need
20 or reasonable belief as to the need to preserve evidence. In fact, Defendant Todmia had
21 no cause whatsoever to seize and question J.R., as she and the LAPD had previously
22 interviewed and examined her fully and found no reason to believe that J.R. was the
23 victim of abuse or neglect.

24 18. Following this interview, Defendant Todmia prepared an application for a
25 warrant to remove J.R. from her parents’ care, custody and control. This application
26 contained numerous misrepresentations of material facts and failed to include critical
27 exculpatory information. Defendant Todmia’s request was denied. The court’s denial of
28 Defendant Todmia’s application demonstrates that she had no exigent circumstances

1 justifying the unconstitutional interview of J.R. Many of the misrepresentations in the
2 protective custody warrant were later repeated and used to justify the filing of a Juvenile
3 Petition that ultimately resulted in the removal and detention of J.R. from her parents'
4 care.

5 19. On December 23, 2016, Defendant Todmia submitted a Petition and Non-
6 Detention Report to the Juvenile Court, as a result of which formal dependency
7 proceedings were initiated as to the minor J.R. The Petition alleged counts under
8 California Welfare & Institutions Code sections 300(b)(1), (b)(2), and (b)(3) (failure to
9 protect), 300(d) (sexual abuse) and 300j (sibling).

10 20. Thereafter, DCFS social worker Kimberly Allen was assigned to the
11 dependency matter.

12 21. On February 21, 2017, a Jurisdiction hearing was held at which ORLANDO
13 and WYTASHA were present. At that hearing, orders were made finding jurisdiction on
14 the basis of the Petition's allegations under sections 300(b)(1), (b)(2), and (b)(3) (failure
15 to protect) and 300j (sibling). The court dismissed the allegations under 300(d) (sexual
16 abuse). No orders were made for any forensic interview or medical procedures, including
17 examination, of the minor child J.R.

18 22. Both ORLANDO and WYTASHA and their attorneys attended the
19 Jurisdiction Hearing, and were available for Defendant COUNTY's DCFS social workers
20 and agents to speak with regarding their consent to any forensic interview and/or medical
21 procedure, including physical examination, of J.R. At no time before, during, or after the
22 hearing did anyone from the COUNTY's DCFS speak with or notify ORLANDO or
23 WYTASHA of any forensic interview or of any medical procedures, including physical
24 examination, or attempt to gain their consent for any such events.

25 23. On March 9, 2017, J.R. was taken by Defendant DCFS social worker Allen
26 to Harbor – UCLA K.I.D.S. HUB in Torrance where a forensic interview of J.R. was
27 conducted. No valid court order giving the parents, or child, and their attorneys, due
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1 process and an opportunity to be heard regarding the forensic interview was obtained and
2 the interview was conducted without exigency, knowledge, consent, or the presence of
3 J.R.'s parents.

4 24. Defendant Allen requested the forensic interview to determine whether J.R.
5 was sexually abused by her father, despite the February 21, 2017 dismissal of all
6 allegations of sexual abuse.

7 25. J.R. did not make any disclosures of abuse during the forensic interview.

8 26. The forensic interview of J.R. was performed pursuant to the COUNTY's
9 policies, procedures, customs, and/or practices. The COUNTY's policies, procedures,
10 customs, practices and/or training (or lack thereof) permitted, or allowed, these forensic
11 interviews to be conducted without parental notice or consent; without exigency or the
12 need to preserve evidence; without court order; and without informing parents of the
13 forensic interview; and by excluding parents from attending such forensic interviews
14 when they occur.

15 27. Despite there being no disclosures by J.R., and without any valid court
16 order, and without exigency, knowledge, or consent or presence of J.R.'s parents,
17 Defendant Allen also caused J.R. to be subjected to a forensic medical examination
18 which included a full body examination, including examinations of her vagina and anus,
19 and the use of a colposcope. Neither Orlando or Wytasha were informed of, given notice
20 of, or given the opportunity to be present during their child's examination.

21 28. The medical procedures, including examination, of J.R. found no evidence
22 of abuse of any kind.

23 29. The forensic medical procedures, including examination, of J.R. was
24 performed pursuant to the COUNTY's policies, procedures, customs and/or practices.
25 The COUNTY's policies, procedures, customs, practices, and/or training (or lack thereof)
26 permitted, or allowed, these medical procedures, including examinations, to be conducted
27 without parental notice or consent; without valid court order providing the parents notice
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1 and an opportunity to be heard; without an urgent medical need or to preserve evidence;
 2 without informing the parents of the forensic medical procedure, including examination;
 3 and by excluding parents from attending such medical procedures, including
 4 examinations, when they occur.

5 30. Plaintiffs are informed and believe that the COUNTY, through its named
 6 social worker Defendants, collaborated with other social workers, County employees,
 7 doctors, medical providers and others (Does 4 to 50) who participate in conducting or
 8 allowing to be conducted the aforementioned unwarranted, non-consensual and non-
 9 emergent school interview, forensic interview and medical procedures, including
 10 examination, of children at a COUNTY operated or sanctioned facility, and without the
 11 minors' parents' presence, all of which constitutes a traditional government function
 12 performed as state actors. (*See, e.g., Troxel v. Granville*, 530 U.S. 57 (2000); *Wallis v.*
 13 *Spencer*, 202 F.3d 1126 (9th Cir. 2000); *Mabe v. County of San Bernardino*, 237 F.3d
 14 1100 (9th Cir. 2001); *Rogers v. County of San Joaquin*, 487 F.3d 1288 (9th Cir. 2007);
 15 *Greene v. Camreta*, 588 F.3d 1011 (9th Cir.2009); *Swartwood v. County of San Diego*, 84
 16 F.Supp.3d 1093 (S.D.Cal.2014); *Dees v. County of San Diego*, 302 F.Supp.3d 1168
 17 (S.D.Cal.2017); *Rabinovitz v. City of Los Angeles*, 287 F.Supp.3d 933 (C.D.Cal.2018);
 18 and *Mann v. County of San Diego*, 907 F.3d 1154 (2018).)

20 **FIRST CLAIM FOR RELIEF**

21 **VIOLATION OF CIVIL RIGHTS (42 USC §1983) (FOURTH AMENDMENT FOR** 22 **UNLAWFUL DETENTION, QUESTIONING AND INTERVIEW AT SCHOOL)** 23 **BY PLAINTIFF J.R. AGAINST DEFENDANT TODMIA and DOES 2 through 50**

24 31. Plaintiffs re-allege, adopt and incorporate as if set forth at length all
 25 paragraphs hereinabove.

26 32. Beginning on December 1, 2016, Defendants Todmia and DOES 2 through
 27 50, inclusive, and each of them, as alleged herein, were acting under color of state law
 28 when they knew and agreed, and thereby conspired and acted in concert with one another,

1 and caused, to unlawfully detain and/or question J.R. without proper reason, basis,
2 authority, or court order; without reasonable or probable cause; and without the consent
3 of her parents. Said Defendants acted with deliberate indifference to J.R.'s rights as
4 protected by the United States Constitution and laws.

5 33. Defendants Todmia and DOES 2 through 50, inclusive, and each of them,
6 caused J.R. to be seized and interrogated at school without a warrant or court order, or
7 parental consent, knowledge, or presence, and without immediate need or exigency, in
8 violation of J.R.'s Fourth Amendment rights.

9 34. The aforesaid conduct of Defendants Todmia and DOES 2 through 50
10 violated J.R.'s civil rights found in the Fourth Amendment of the United States
11 Constitution and as enforced under 42 U.S.C. §1983 and §1985, by, but not limited to,
12 acting and conspiring to seize, detain, arrest, coerce, question, and interfere with J.R.'s
13 person, without proper or just cause and/or authority, without parental consent, without
14 parental knowledge or presence, and without court order in violation of J.R.'s Fourth
15 Amendment right against unreasonable searches and seizures.

16 35. As a direct result of Defendants' violations, and in accordance with 42
17 U.S.C. §1983 and §1985, J.R.'s civil rights have been violated in that she has suffered,
18 and will continue to suffer damages, including but not limited to, physical and/or mental
19 anxiety and anguish; as well as to incur attorneys fees, costs and expenses in this matter
20 as authorized by 42 U.S.C. §1988, in an amount not yet ascertained, all of which shall be
21 shown according to proof at trial.

22 36. The wrongful and unlawful conduct of Defendants Todmia, and DOES 2
23 through 50 Inclusive, was intentional, done with malice, and/or with conscious disregard
24 for J.R.'s rights. As a result of their despicable conduct, J.R. is entitled to recover
25 punitive damages as against said Defendants in an amount to be proved at the time of
26 trial.
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SECOND CLAIM FOR RELIEF
VIOLATION OF CIVIL RIGHTS (42 USC §1983) (FOURTEENTH
AMENDMENT AND FIRST AMENDMENT AS TO UNLAWFUL DETENTION,
QUESTIONING AND INTERVIEW AT SCHOOL) BY ALL PLAINTIFFS
AGAINST DEFENDANTS TODMIA and DOES 2-50

37. Plaintiffs reallege, adopt and incorporate by this reference all paragraphs above, as though fully set forth herein.

38. On December 1, 2016, Defendants Todmia and DOES 2 through 50, inclusive, and each of them, were acting under color of state law when they knew, and agreed, and thereby conspired, to unlawfully and unduly influence and threaten and coerce J.R. into responding to their interrogation. Defendants' actions were without proper reason, authority, or court order, without reasonable or probable cause and with deliberate indifference to Plaintiffs' rights.

39. By unlawfully seizing and interrogating J.R. without court order, just or reasonable cause, or consent, Defendants Todmia and DOES 2 through 50, inclusive, and each of them, interfered with ORLANDO's and WYTASHA's right to the care, custody and control of their daughter, and J.R.'s right to the care and comfort of her parents, without unreasonable and unjustified government interference.

40. Plaintiffs are informed and believe, and based thereon allege, that these actions were taken without just or reasonable cause, and with an intent to cause injury to Plaintiffs, or with a willful and conscious disregard of Plaintiffs' rights and/or safety.

41. By acting as alleged above, Defendants Todmia and DOES 2 through 50, inclusive, and each of them, conspired to and did interfere with and violate Plaintiffs' procedural and substantive due process rights protected by the Fourteenth Amendment of the United States Constitution, including Plaintiffs' liberty interest in the right to familial association, as enabled by 42 U.S.C. §1983 and §1985. Defendants Todmia and DOES 2 through 50, inclusive, and each of them, also conspired to and did interfere with and

1 violate Plaintiffs' First Amendment right to be free from the unjustified interference with
2 their relationship.

3 42. As a direct result of the violation by Defendants Todmia and DOES 2
4 through 50, inclusive, and each of them, and in accordance with 42 U.S.C. §1983 and
5 §1985, Plaintiffs' civil rights have been violated in that they have suffered, and will
6 continue to suffer damages, including but not limited to, physical and/or mental anxiety
7 and anguish; as well as to incur attorneys fees, costs and expenses in the underlying case
8 and in the matter, as authorized by 42 U.S.C. §1988 in an amount not yet ascertained, all
9 of which shall be shown according to proof at trial.

10 43. The wrongful conduct of Defendants Todmia and DOES 2 through 50,
11 inclusive, and each of them, as herein alleged was intentional, done with malice, and with
12 conscious disregard for Plaintiffs' rights, and as a result of their despicable conduct,
13 Plaintiffs are entitled to recover punitive damages as against said Defendants in an
14 amount to be proven at the time of trial.

15 **THIRD CLAIM FOR RELIEF**

16 **VIOLATION OF CIVIL RIGHTS (42 USC §1983) (FOURTH AMENDMENT** 17 **FOR UNLAWFUL DETENTION, QUESTIONING AND FORENSIC** 18 **INTERVIEW) BY PLAINTIFF J.R. AGAINST DEFENDANT ALLEN and DOES** 19 **2 through 50**

20 44. Plaintiffs re-allege, adopt and incorporate as if set forth at length all
21 paragraphs hereinabove.

22 45. Beginning on March 9, 2017, Defendants Allen and DOES 2 through 50,
23 inclusive, and each of them, as alleged herein, were acting under color of state law when
24 they knew and agreed, and thereby conspired and acted in concert with one another, and
25 caused, to unlawfully submit J.R to a forensic interview without proper reason, basis,
26 authority, or court order; without reasonable or probable cause; and without the consent
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1 or presence of her parents. Said Defendants acted with deliberate indifference to J.R.'s
2 rights as protected by the United States Constitution and laws.

3 46. On March 9, 2017, Defendants Allen and DOES 2 through 50, inclusive, and
4 each of them, caused the unlawful forensic interview of J.R. without a warrant or court
5 order, or parental consent, knowledge, or presence, and without immediate need or
6 exigency, in violation of J.R.'s Fourth Amendment rights.

7 47. The aforesaid conduct of Defendants Allen, and DOES 2 through 50,
8 violated J.R.'s civil rights found in the Fourth Amendment of the United States
9 Constitution and as enforced under 42 U.S.C. §1983 and §1985, by, but not limited to,
10 acting and conspiring to seize, detain, arrest, coerce, question, and interfere with J.R.'s
11 person, without proper or just cause and/or authority, without parental consent, without
12 parental knowledge or presence, and without valid court order in violation of J.R.'s
13 Fourth Amendment right against unreasonable searches and seizures.

14 48. As a direct result of Defendants' violations, and in accordance with 42
15 U.S.C. §1983 and §1985, J.R.'s civil rights have been violated in that she has suffered,
16 and will continue to suffer damages, including but not limited to, physical and/or mental
17 anxiety and anguish; as well as to incur attorney's fees, costs and expenses in this matter
18 as authorized by 42 U.S.C. §1988, in an amount not yet ascertained, all of which shall be
19 shown according to proof at trial.

20 49. The wrongful and unlawful conduct of Defendants Allen and DOES 2
21 through 50 Inclusive, was intentional, done with malice, and/or with conscious disregard
22 for J.R.'s rights. As a result of their despicable conduct, J.R. is entitled to recover
23 punitive damages in an amount to be proved at the time of trial.

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FOURTH CLAIM FOR RELIEF
VIOLATION OF CIVIL RIGHTS (42 USC §1983) (FOURTEENTH
AMENDMENT AND FIRST AMENDMENT AS TO UNLAWFUL DETENTION,
QUESTIONING AND FORENSIC INTERVIEW) BY ALL PLAINTIFFS
AGAINST DEFENDANTS ALLEN and DOES 2 through 50

50. Plaintiffs reallege, adopt and incorporate by this reference all paragraphs above, as though fully set forth herein.

51. On March 9, 2017, Defendants Allen and DOES 2 through 50, inclusive, and each of them, were acting under color of state law when they knew, and agreed, and thereby conspired, to unlawfully submit J.R. to a forensic interview without proper reason, basis, authority, or court order; without reasonable or probable cause; and without the consent or presence of her parents. Defendants' actions were without proper reason, authority, or valid court order giving her and her parents notice and opportunity to be heard, without reasonable or probable cause and with deliberate indifference to Plaintiffs' rights.

52. By unlawfully causing the forensic interview of J.R. without valid court order, just or reasonable cause, consent, and parental presence, Defendants Allen and DOES 2 through 50, inclusive, and each of them, interfered with ORLANDO's and WYTASHA's right to the care, custody and control of their daughter, and J.R.'s right to the care and comfort of her parents, without unreasonable and unjustified government interference.

53. Plaintiffs are informed and believe, and based thereon allege, that these actions were taken without just or reasonable cause, and with an intent to cause injury to Plaintiffs, or with a willful and conscious disregard of Plaintiffs' rights and/or safety.

54. By acting as alleged above, Defendants Allen, and DOES 2 through 50, inclusive, and each of them, conspired to and did interfere with and violate Plaintiffs' procedural and substantive due process rights protected by the Fourteenth Amendment of

1 the United States Constitution, including Plaintiffs' liberty interest in the right to familial
 2 association, as enabled by 42 U.S.C. §1983 and §1985. Defendants Allen and DOES 2
 3 through 50, inclusive, and each of them, also conspired to and did interfere with and
 4 violate Plaintiffs' First Amendment right to be free from the unjustified interference with
 5 their relationship.

6 55. As a direct result of the violation by Defendants Allen, and DOES 2 through
 7 50, inclusive, and each of them, and in accordance with 42 U.S.C. §1983 and §1985,
 8 Plaintiffs' civil rights have been violated in that they have suffered, and will continue to
 9 suffer damages, including but not limited to, physical and/or mental anxiety and anguish;
 10 as well as to incur attorney's fees, costs and expenses in the underlying case and in the
 11 matter, as authorized by 42 U.S.C. §1988 in an amount not yet ascertained, all of which
 12 shall be shown according to proof at trial.

13 56. The wrongful conduct of Defendants Allen and DOES 2 through 50,
 14 inclusive, and each of them, as herein alleged was intentional, done with malice, and with
 15 conscious disregard for Plaintiffs' rights, and as a result of their despicable conduct,
 16 Plaintiffs are entitled to recover punitive damages as against said Defendants in an
 17 amount to be proven at the time of trial.

18 **FIFTH CLAIM FOR RELIEF**

19 **VIOLATION OF CIVIL RIGHTS (42 USC §1983) (FOURTH AMENDMENT FOR** 20 **UNLAWFUL MEDICAL PROCEDURES, INCLUDING EXAMINATION) BY** 21 **PLAINTIFF J.R. AGAINST DEFENDANTS ALLEN and DOES 2 through 50**

22 57. Plaintiffs re-allege, adopt and incorporate as if set forth at length all
 23 paragraphs hereinabove.

24 58. Beginning on March 9, 2017, Defendants Allen and DOES 2 through 50,
 25 inclusive, and each of them, as alleged herein, were acting under color of state law when
 26 they knew and agreed, and thereby conspired and acted in concert with one another, and
 27 unlawfully caused Minor Plaintiff J.R. to be subjected to medical procedures, including
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1 examination, without proper reason, basis, authority, or valid court order; without
2 reasonable or probable cause; and without the consent or presence of her parents. Said
3 Defendants acted with deliberate indifference to J.R.'s rights as protected by the United
4 States Constitution and laws.

5 59. On March 9, 2017, Defendants Allen and DOES 2 through 50, inclusive, and
6 each of them, caused J.R. to be submitted to medical procedures, including examination,
7 without a warrant or valid court order giving her or her parents notice and an opportunity
8 to be heard; without parental consent, knowledge, or presence; and without immediate
9 need or exigency; in violation of J.R.'s Fourth Amendment rights.

10 60. The aforesaid conduct of Defendants Allen and DOES 2 through 50 violated
11 J.R.'s civil rights found in the Fourth Amendment of the United States Constitution and
12 as enforced under 42 U.S.C. §1983 and §1985, by, but not limited to, acting and
13 conspiring to seize, detain, and subject said minor to medical procedures, including
14 examinations, as alleged herein, interfering with J.R.'s person and rights, without proper
15 or just cause and/or authority, without parental consent, without parental knowledge or
16 presence, and without valid court order, in violation of J.R.'s Fourth Amendment right
17 against unreasonable searches and seizures.

18 61. As a direct result of Defendants' violations, and in accordance with 42
19 U.S.C. §1983 and §1985, J.R.'s civil rights have been violated in that she has suffered,
20 and will continue to suffer damages, including but not limited to, physical and/or mental
21 anxiety and anguish; as well as to incur attorney's fees, costs and expenses in this matter
22 as authorized by 42 U.S.C. §1988, in an amount not yet ascertained, all of which shall be
23 shown according to proof at trial.

24 62. The wrongful and unlawful conduct of Defendants Allen and DOES 2
25 through 50 Inclusive was intentional, done with malice, and/or with conscious disregard
26 for J.R.'s rights. As a result of their despicable conduct, J.R. is entitled to recover
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1 punitive damages as against said Defendants in an amount to be proved at the time of
2 trial.

3 **SIXTH CLAIM FOR RELIEF**
4 **VIOLATION OF CIVIL RIGHTS (42 USC §1983) (FOURTEENTH**
5 **AMENDMENT AND FIRST AMENDMENT AS TO UNLAWFUL MEDICAL**
6 **PROCEDURES, INCLUDING EXAMINATIONS) BY ALL PLAINTIFFS**
7 **AGAINST DEFENDANTS ALLEN and DOES 2 through 50**

8 63. Plaintiffs reallege, adopt and incorporate by this reference all paragraphs
9 above, as though fully set forth herein.

10 64. On March 1, 2017, Defendants Allen and DOES 2 through 50, inclusive, and
11 each of them, were acting under color of state law when they knew, and agreed, and
12 thereby conspired, to unlawfully cause J.R. to be subjected to medical procedures,
13 including examination, without proper reason, authority, or valid court order, without
14 reasonable or probable cause, without parental presence and with deliberate indifference
15 to Plaintiffs' rights.

16 65. By unlawfully subjecting J.R. to medical procedures, including
17 examinations, as alleged herein without valid court order, just or reasonable cause,
18 consent, or parental presence, Defendants Allen and DOES 2 through 50, inclusive, and
19 each of them, interfered with ORLANDO's and WYTASHA's right to the care, custody
20 and control of their daughter, and J.R.'s right to the care and comfort of her parents,
21 without unreasonable and unjustified government interference.

22 66. Plaintiffs are informed and believe, and based thereon allege, that these
23 actions were taken without just or reasonable cause, and with an intent to cause injury to
24 Plaintiffs, or with a willful and conscious disregard of Plaintiffs' rights and/or safety.

25 67. The right to family association includes a parents' and child's right for the
26 parent to make important medical decisions for their children, rather the state (see *Wallis*
27 *v. Spencer*, 202 F.3d 1126, 1141 (9th Cir. 2000) and cases thereafter). That right includes
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1 a parent's and child's right for the parent to control the nature and scope of any medical
2 procedures, including examination, that are conducted on his or her child. Absent
3 parental consent, valid court order, or exigent circumstances, medical procedures,
4 including examination, of a child may not be undertaken at the behest of state officials.

5 68. Furthermore, parents have a constitutional right to be with their children, and
6 children have the right for their parent to be present, while children are receiving medical
7 attention or to be in close proximity while the medical procedures, including
8 examination, are being conducted. (See, e.g., *Wallis v. Spencer*, 202 F.3d 1126, 1141 (9th
9 Cir. 2000) and cases thereafter.)

10 69. The right of parents and children to have the parents make medical decisions
11 about their children, and to be present during their children's medical procedures,
12 including examinations, in the absence of a valid warrant or order, parental consent, or
13 emergency, and with parental presence, was clearly established by at least 2000.

14 70. By acting as alleged above, Defendants Allen and DOES 2 through 50,
15 inclusive, and each of them, conspired to and did interfere with and violate Plaintiffs'
16 procedural and substantive due process rights protected by the Fourteenth Amendment of
17 the United States Constitution, including Plaintiffs' liberty interest in the right to familial
18 association, as enabled by 42 U.S.C. §1983 and §1985. Defendants Allen and DOES 2
19 through 50, inclusive, and each of them, also conspired to and did interfere with and
20 violate Plaintiffs' First Amendment right to be free from the unjustified interference with
21 their relationship.

22 71. As a direct result of the violation by Defendants Allen and DOES 2 through
23 50, inclusive, and each of them, and in accordance with 42 U.S.C. §1983 and §1985,
24 Plaintiffs' civil rights have been violated in that they have suffered, and will continue to
25 suffer damages, including but not limited to, physical and/or mental anxiety and anguish;
26 as well as to incur attorney's fees, costs and expenses in the underlying case and in the
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1 matter, as authorized by 42 U.S.C. §1988 in an amount not yet ascertained, all of which
2 shall be shown according to proof at trial.

3 72. The wrongful conduct of Defendants Allen and DOES 2 through 50,
4 inclusive, and each of them, as herein alleged was intentional, done with malice, and with
5 conscious disregard for Plaintiffs' rights, and as a result of their despicable conduct,
6 Plaintiffs are entitled to recover punitive damages as against said Defendants in an
7 amount to be proven at the time of trial.

8 **SEVENTH CLAIM FOR RELIEF**

9 **MONELL RELATED CLAIMS By Plaintiffs Against Defendant COUNTY**

10 73. Plaintiffs reallege, adopt and incorporate the above paragraphs as though
11 fully set forth herein.

12 74. At all relevant times herein, Defendant COUNTY, including through its
13 DCFS, established and/or followed policies, procedures, customs and/or practices
14 (hereinafter collectively referred to as "policy" or "policies"), which were the cause of
15 violation of Plaintiffs' constitutional rights granted to them pursuant to 42 U.S.C. §1983
16 and §1985, as well as the case of *Monell v. New York City Department of Social Services*,
17 436 U.S. 658(1978), including those under the First, Fourth and Fourteenth Amendments,
18 by, but not limited to:

- 19 a. The policy of detaining children from their parents without exigent
20 circumstances (imminent danger of serious bodily harm), court order
21 and/or consent of their parent or legal guardian;
- 22 b. The policy of causing minor children to be seized and interviewed at
23 school without court order, parental consent, parental knowledge,
24 parental presence, exigent circumstances and without just and reasonable
25 cause;
- 26 c. The policy of not allowing children and parents to have a parent
27 present at their minor's school interview;
28

- 1 d. The policy of causing minor children to be seized and forensically
2 interviewed without valid court order, parental consent, parental
3 knowledge, parental presence, exigent circumstances and without just
4 and reasonable cause;
- 5 e. The policy of not allowing children and parents to have a parent
6 present, or nearby, at their minor child's forensic interview;
- 7 f. The policy of causing medical examinations, treatment and/or
8 procedures of a minor child without the knowledge, consent, presence
9 and/or authorization of the parent(s) or legal guardians, and without
10 exigency (imminent danger of serious bodily harm), without medical
11 need or urgency, and without valid court order;
- 12 g. The policy of not allowing children and parents to have a parent
13 present at their minor child's medical procedures, including
14 examinations and/or treatment;
- 15 h. The policy of obtaining, and using, orders for examination of children
16 without due process of law, (including without proper application, notice
17 and opportunity to be heard, and due process to their parents);
- 18 i. By acting with deliberate indifference in implementing a policy of
19 inadequate training, and/or by failing to train and/or supervise its
20 officers, agents and employees, in providing the Constitutional
21 protections guaranteed to parents and their children, including those
22 under the First, Fourth and Fourteenth Amendments, when seizing and
23 questioning minors.
- 24 j. By acting with deliberate indifference in implementing a policy of
25 inadequate training, and/or by failing to train and/or supervise its
26 officers, agents and employees, in providing the Constitutional
27 protections guaranteed to parents and their children, including those
28

1 under the First, Fourth and Fourteenth Amendments, causing medical
2 procedures, including examinations, to be performed on minors.

3 k. The policy of acting with deliberate indifference in failing to
4 supervisor and/or correct (including counseling and/or discipline) the
5 wrongful conduct of its employees in failing to provide the
6 Constitutional protections guaranteed to parents and their children,
7 including those under the First, Fourth and Fourteenth Amendments,
8 when seizing and questioning minors.

9 l. The policy of acting with deliberate indifference in failing to supervise
10 and/or correct (including counseling and/or discipline) the wrongful
11 conduct of its employees in failing to provide the Constitutional
12 protections guaranteed to parents and their children, including those
13 under the First, Fourth and Fourteenth Amendments, when causing
14 medical procedures, including examinations, to be performed on minors.
15

16 75. Defendant COUNTY had a duty to Plaintiffs at all times to establish,
17 implement and follow policies, procedures, customs and/or practices which confirm and
18 provide for the protections guaranteed them under the United States Constitution,
19 including the First, Fourth and Fourteenth Amendments; to use reasonable care to select,
20 supervise, train, control and review the activities of all agents, officers and employees in
21 their employ, including within DCFS; and further, to refrain from acting with deliberate
22 indifference to the Constitutional rights of Plaintiffs herein so as to not cause them the
23 injuries and damages alleged herein.

24 76. The COUNTY breached its duties and obligations to Plaintiffs, including but
25 not limited to, failing to establish, implement and follow the correct and proper
26 Constitutional policies, procedures, customs and practices; by failing to properly select,
27 supervise, train, control, and review their agents and employees as to their compliance
28 with Constitutional safeguards; and by permitting the individually named Defendants,

1 and Does 2 through 50, inclusive, to engage in the unlawful and unconstitutional conduct
2 as herein alleged.

3 77. Defendant COUNTY knew, or should have known, that by breaching the
4 aforesaid duties and obligations that it was foreseeable that it would, and did, cause
5 Plaintiffs to be injured and damaged by its wrongful policies and acts as alleged herein
6 and that such breaches occurred in contravention of public policy and as to its legal duties
7 and obligations to Plaintiffs.

8 78. These actions, or inactions, of Defendant COUNTY are the legal cause of
9 injuries to Plaintiffs as alleged herein; and as a result thereof, Plaintiffs have sustained
10 general and special damages, as well as incurring attorneys fees, costs and expenses,
11 including those as authorized by 42 U.S.C. §1988, to an extent and in an amount subject
12 to proof at trial.

13 **EIGHTH CLAIM FOR RELIEF**

14 **INJUNCTIVE RELIEF Against All Defendants.**

15 79. Plaintiffs reallege, adopt and incorporate all above paragraphs as though
16 fully set forth herein.

17 80. Plaintiffs, as citizens and individuals, are protected by the laws and
18 Constitution of the United States, including the First, Fourth and Fourteenth Amendments
19 thereto of the United States Constitution, and are subject to further violations of their
20 rights by Defendants.

21 81. By virtue of the conduct of their agents and employees, including
22 Defendants Todmia, Allen, and Does 2 through 50, Defendant COUNTY has wrongfully
23 and unlawfully, and with deliberate indifference to Plaintiffs' rights and to Defendants'
24 duties and obligations to Plaintiffs, practiced and/or adopted policies, practices,
25 procedures and/or customs which are in violation of Plaintiffs' Constitutional rights,
26 including the right to be secure in their person, the right to due process, the right to be
27 free from governmental interference as to their familial association and from
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1 unreasonable searches or seizures, including, but not limited to school interviews,
2 forensic interviews, and medical procedures, including examinations, of minors in their
3 care or custody.

4 82. Defendants have failed to acknowledge their improper, unlawful and
5 unconstitutional actions, conduct and policies at the time of the subject incidents herein,
6 and to correct said conduct and policies. Plaintiffs are informed and believe, and on that
7 basis allege, that Defendants have not changed or modified such actions, conduct and/or
8 policies to conform to law.

9 83. Defendants' wrongful and unlawful conduct, actions and/or policies, unless
10 and until enjoined and restrained by order of the court, will cause, and continue to cause,
11 great and irreparable injury to Plaintiffs, and other individuals and citizens, in that
12 Defendants, including the agents and employees of Defendant COUNTY, will continue
13 to act in accordance with said unlawful policies, and with deliberate indifference to their
14 duties and obligations under the laws and Constitution of the State of California, and of
15 the United States, including the First, Fourth and Fourteenth amendments as herein
16 before alleged.

17 84. Plaintiffs have no adequate remedy at law to prevent or prohibit Defendants
18 from continuing, and/or repeating, their unlawful and unconstitutional conduct and
19 policies other than through injunctive relief, and therefore seek an order enjoining and
20 prohibiting Defendants from, but not limited to, the following:

21 a. From failing to establish, implement, and follow policies, procedures,
22 customs and practices mandated by the U.S. Constitution, as to the
23 detention and interrogation of minor children at public schools without
24 parental consent, presence or knowledge, valid court order, or exigent
25 circumstances.

26 b. From failing to establish, implement, and follow policies, procedures,
27 customs and practices mandated by the U.S. Constitution, as to the
28

1 detention and interrogation of minor children during forensic interviews
 2 without parental consent, presence or knowledge, valid court order, or
 3 exigent circumstances.

4 c. From failing to establish, implement, and follow policies, procedures,
 5 customs and practices mandated by the U.S. Constitution, as to
 6 conducting medical procedures, including examinations, of minor
 7 children without parental consent, presence or knowledge, court order or
 8 exigent circumstance.

9 d. From failing to properly supervise, manage, control, train and direct
 10 the activities of their officers, agents and employees as to their
 11 compliance with those principals mandated by the First, Fourth and
 12 Fourteenth Amendments to the United States Constitution and laws.

13 e. From such other prohibited and unlawful conduct as set forth herein.
 14

15 **PRAYER**

16 WHEREFORE, Plaintiffs request trial by jury and pray judgment against the
 17 Defendants as follows:

18 **First Through Sixth Claims for Relief**

- 19 1. General damages in an amount to be determined by proof at trial.
- 20 2. Special damages in an amount to be determined by proof at trial.
- 21 3. Punitive damages.
- 22 4. Attorney fees, costs and expenses as authorized by 42 U.S.C. Section 1988
- 23 according to proof.
- 24 5. Interest according to law.
- 25 6. Costs of this action.
- 26 7. Any other and further relief that the Court considers proper.

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1 Seventh Claim for Relief

- 2 1. General damages in an amount to be determined by proof at trial.
- 3 2. Special damages in an amount to be determined by proof at trial.
- 4 3. Attorney fees, costs and expenses as authorized by 42 U.S.C. Section 1988
- 5 according to proof.
- 6 4. Interest according to law.
- 7 5. Costs of this action.
- 8 6. Any other and further relief that the Court considers proper.

9 Eighth Claim for Relief

- 10 1. Injunctive relief, as allowed by law (including preliminary injunctive relief
- 11 based upon separate application).
- 12 2. Attorney fees, costs, penalties and expenses as authorized by 42 U.S.C.
- 13 §1988, and other applicable laws, according to proof.
- 14 3. Any other and further relief that the Court considers proper.

15

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17 DATED: February 20, 2019 LAW OFFICE OF DONNIE R. COX

18 s/ Donnie R. Cox

19 DONNIE R. COX, Attorney for Plaintiffs

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